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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,690	11/13/2001	Jon W. Roeder	20005.14	5894

7590 09/09/2003

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EXAMINER

HARRIS, STEPHANIE N

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/992,690

Applicant(s)

ROLEDER ET AL.

Examiner

Stephanie N. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3, 18-25 and 32-67 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-25, 32-35 and 37-51 is/are allowed.
- 6) ☒ Claim(s) 3, 36, 52-58, 64 and 65 is/are rejected.
- 7) ☒ Claim(s) 59-63, 66 and 67 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 36, 52, 53, 54, 55, 57, 58, and 64 are rejected under 35 U.S.C. 102(e) as being anticipated by Lloyd (US 2002/0067060 A1).

Regarding claim 3, Lloyd discloses a massage chair that is comprised of a seat, a first support surface, and a front upper support assembly that is coupled to the seat. A first positioning mechanism movably secures the first support surface to the front upper support assembly.

The first positioning mechanism includes a guide rail (128) that is coupled to the first support surface (30) as seen in Figure 2. The guide rail has a substantially square cross section as seen in Figure 3. A clamping assembly (100) is coupled to the front upper support assembly as seen in Figures 2 and 3. The clamping assembly (100) selectively moves between a locked position which inhibits movement of the first support surface relative to the clamping assembly, and an unlocked position that allows rotation of the first support surface relative to the front upper support assembly and

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sliding of the first support surface relative to the front upper support assembly ( [0030]; [0036]).

Regarding claim 36, the clamping assembly includes a clamp pin (170) having a first pin end and an opposing second pin end as seen in Figure 4. A guide receiver (166, 162) is positioned near the first pin end and the guide receiver selectively moves between a locked position and unlocked position [0036].

Regarding claim 52, the first support surface (30) has a longitudinal axis as seen in Figure 2. The guide rail is coupled to the first support surface and is positioned along the longitudinal axis as seen in Figure 3.

The clamping assembly includes a single locking lever (100) that moves between an unlocked position and a locked position ([0036]).

Regarding claim 53, the guide rail has longitudinal axis and the first support surface (30) slides in a direction that is parallel to the longitudinal axis when the clamping assembly is in the unlocked position as seen in Figure 2.

Regarding claim 54, the clamping assembly includes a rotational axis that is substantially perpendicular to the longitudinal axis and in the unlocked position, the first support surface rotates around the rotational axis and slides along the longitudinal axis as seen in Figure 2.

Regarding claims 55, the guide rail (128) has a square cross section as seen in Figure 3.

Regarding claim 64, the first support surface is a chest support.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd (US 2002/0067060 A1).

Regarding claim 56, Lloyd shows all of the teachings of the claimed invention but fails to show the use of a guide rail that has a diamond shaped cross section. It would have been an obvious matter of design choice to use a a diamond shaped cross section, since applicant has not disclosed that using a diamond shaped cross section solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a square shaped shape cross section.

Regarding claim 65, Lloyd discloses all of the claimed structure of the instant invention. Lloyd lacks only the specifically recited method steps.

It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the chair of Lloyd by the claimed method steps. Such a modification provides a conventional and efficient method of using the device of Lloyd.

***Allowable Subject Matter***

Claims 59, 60, 61, 62, 63, 66, and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 18-25, 32-35, and 37-51 are allowed.

***Response to Arguments***

Applicant's arguments with respect to claims 3 and 18-25 have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

Applicant is reminded that under the revised amendment Practice (37 CFR 1.121), claims which are designated as "New" should not contain markings to indicate changes. Claim 52 which is designated as "New" includes underlining which indicates markings to show changes. Appropriate correction is required.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

August 28, 2003

  
Peter M. Cuomo  
Supervisory Patent Examiner  
Technology Center 3600